

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Social Welfare – Appeal Petition filed by Sri Dasari Ramesh, S/o Seenaiah, SPS Nellore Dist. against the Proceedings D.Dis.(C5)1061/2010, dated: 27.07.2010 issued by the District Collector, SPS Nellore - Appeal Dismissed – Orders - Issued.

SOCIAL WELFARE (CV.1) DEPARTMENT

G.O.Ms.No.66

Dated: 25-11-2011.

Read the Following:

1. Proceedings of the Dist. Collector, SPS Nellore No.RC.C5 (M) 1454/2006, dated: 05.07.2009.
2. Proceedings of the Dist. Collector, SPS Nellore No.D.Dis. (C5) 1061/2010, dated: 27.07.2010
3. Appeal Petition filed by Sri D.Ramesh, S/o Seenaiah, SPS Nellore Dist. in IA No. /2010 received through M (SW) Endt.No.2072/M (SW)/2010, dated: 04.08.2010.
4. Memo.No.5974/CV.1/2010-1, S.W (CV.1) Dept.,
Dated: 16-08-2010.
5. The District Collector, SPS Nellore No.Rc.C5 (M) 1625/ 2010, dated: 13.09.2010
6. Letter No.5974/CV.1/2010-11, S.W (CV.1) Dept., Dated: 21-09-2011.

O R D E R:

In the reference 1st read above, the District Collector, SPS Nellore has issued proceedings canceling the Samban Scheduled Caste Certificate issued by the RDO, Kavali to Sri Dasari Ramesh, S/o Seenaiah, Buchireddypalem, SPS Nellore and published the same as Notification in the District Gazette.

2. Aggrieved by the above orders, Sri Dasari Ramesh has filed W.P.No.13989/2009 before the Andhra Pradesh High Court. In accordance with the orders of the Hon'ble High Court, dated: 22-04-2010 in W.P.No.13989/2009, a show-cause notice has been issued to the individual by the District Collector, SPS Nellore. After examining the explanation of the appellant, the District Collector, SPS Nellore has issued Proceedings in the reference 2nd read above confirmed the orders issued in RC.C5 (M) 1454/2006, dated: 05.07.2009 in which it was cancelled the Samban (Scheduled Caste) Caste Certificate of the individual as he does not belong to Samban (SC) Community.

3. Aggrieved by the said Proceedings of the District Collector, SPS Nellore Sri D.Ramesh in the reference 3rd read above, has filed an appeal petition before the Government against the orders of the District Collector, SPS Nellore, dated; 27-07-2010 u/s 7(2) of the A.P (SCs, STs & BCs) Issue of Community Certificates Act, 1993 (Act No. 16 of 1993), and rules issued there under and submitted the following grounds among other in support of his claim.

i): The Hon'ble High Court in W.P.No.17636 of 2004 never directed the respondents to initiate enquiry with respect to caste of Appellant. Therefore, initiating the enquiry itself into caste of the appellant as if the Hon'ble High Court directed the respondents to initiate enquiry is arbitrary, illegal and contrary to the order dated 03-11-2006 in WP.No.17636 of 2004.

ii-iv): The appellant quoted the Act and Rules.

[Contd.....2]

v): Admittedly, in the instant case, the District Level Scrutiny Committee has not called for any report either from the protection of civil rights or from the officer of the research organization. Therefore, the order passed by the 1st respondent is liable to be struck down on this ground alone.

vi): The District Level Scrutiny Committee has submitted report stating that the appellant does not belong to Samban caste without there being any material before it. Though the reports of the MRO, Buchireddypalem dated: 04-06-2006 and the report of the RDO, Kavali dated: 03-01-2007 clearly state that appellant belong to Samban caste, the 1st respondent i.e the District Collector has not given any reasons for not taking into consideration the said reports and further apart from the said reports there was no other reports before the 1st respondent to come to a conclusion that the appellant does not belong to Samban caste, except the report of the MRO, Buchireddypalem, dated: 27-05-2004 which is solely based on the statements given by one member of MPTC and a Gram Panchayat Secretary that Appellant does not belong to Samban caste. Therefore, the action of the 1st respondent in canceling the caste certificate issued to the appellant basing on the said report of the MRO, Buchireddypalem, dated: 27-05-2004 and the report of the DLSC dated 20.6.2009 is arbitrary, illegal and violative of principles of natural justice.

vii) The 1st respondent i.e the District Collector has not given any reasons as to why the document dated: 11.2.1939 is not genuine except stating that same appears to be not genuine. Further erred in stating that Appellant has not proved the relationship with the purchaser before the DLSC, though the appellant has produced 3 sons of Dasari Ramaiah i.e., vendee of above said documents dated 11.2.1939 namely (I) Dasari China Venkaiah (ii) Dasari Sheshaiah (iii) Dasari Abbaiah before the DLSC during the enquiry.

(viii): The 1st respondent ought to have seen that appellant's caste is recorded as Samban in school and college records.

(ix): The 1st respondent ought to have seen that in the entire coastal area there is no caste known as Chambadi and the Chambadi is only colloquial name of the Samban caste.

(x): The Samban caste is included in the presidential order as Schedule Caste; this was done after conducting the detailed enquiry regarding their social status, living conditions and poverty etc. Merely because of inability to pronounce or because of Colloquial usage of "Samban" as "Chambadi" it cannot become a different caste. There is no Chambadi caste at all. There is only Samban caste. Colloquial name does not decide the caste. Therefore, the respondents herein have no power to adopt different criteria and dub the people as Chambadi.

(xi): In so far as the state of Andhra Pradesh (excluding Telangana Districts) the presidential order refers to caste Samban as schedule caste and therefore it must be presumed that the Government intended to treat Samban in the said area as Schedule caste. But admittedly there is no such caste specially known as Samban in the said area and had there been such a caste specially known as Samban in the said area then there could have been no difficulty. Such being the case it is obligatory to the respondents to find out which caste of said area was meant to be Samban caste and they should have examined whether Chambadi or Sambuni Kapu were meant to be Samban as mentioned in Presidential order. In view of these peculiar circumstances the respondents ought to have enquired into question instead of disposing of the matter purely on the ground that there is no caste Samban in the area.

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(xii): In similar circumstances vide proceedings dated: 11.11.1998 the District Collector, Nellore has cancelled the certificate issued to Sulluru Devarajulu and 12 others of Nellore District stating that they belong to chambadi community. Aggrieved by the said proceedings of the District Collector, Nellore Sri Sulluru Devarajulu and 12 others filed appeal before this Hon'ble Authority under section 7(2) of the Act. This Hon'ble Authority after careful consideration of evidence on record and after hearing the arguments, issued G.O.Ms.No.89, Social Welfare (CV.1) Department dated: 20.9.2001 there by setting aside the orders issued by the District Collector, Nellore dated 11.11.1998. In fact the appellants in the above said appeal are relatives to the appellant herein.

(xiii): Now, by virtue of the impugned proceedings, the 4th respondent i.e, Tahsildar, Vakadu Mandal, SPS Nellore District is taking steps to terminate the appellant from the services. In these circumstances, if the proceedings of the 1st respondent are not suspended pending appeal, the appellant will be put to irreparable loss and serious hardship.

4. In the reference 4th read above, the Government have admitted the appeal petition of Dasari Ramesh and requested the District Collector, SPS Nellore to furnish Parawise remarks and connected records to examine and finalize the case.

5. The District Collector, SPS Nellore vide his letter 5th read above has furnished the relevant records and parawise remarks on the Appeal petition of Sri D.Ramesh.

6. The Government after examination of the matter and available records it is observed that:

In accordance with Sec.5 (1) of the A.P., (SCs,STs and BCs) Regulation of issue of Community certificates Act 1993, the District Collector may either suo-moto or on a written complaint by any person call for the record and enquire into the correctness of a person not belonging to any of the SCs , STs or BCs has obtained a false community certificate to the effect that either himself or his children belong to such Castes, Tribes or Classes. It is not correct to say that initiating the enquiry into the caste of the appellant is against to the order dated: 03.11.2006 in WP No.17636 of 2004 of Hon'ble High Court.

The DLSC, comprising the Joint Collector as Chairman, the District Revenue Officer as the convener and member and the Deputy Director, Social Welfare, the District Tribal Welfare Officer and the District B.C. Welfare Officers as the members has enquired into caste status of the appellant in detail and offered its findings recommending to cancel Samban Scheduled Caste Certificate issued to him by the Revenue Divisional Officer, Kavali vide F.Dis.No. 63/92, dt: 10.6.1992 as the individual does not belong to Samban (Scheduled Caste). The District Collector has examined the matter and issued orders canceling the Samban (Scheduled Caste) Certificate of the appellant.

The DLSC has conducted enquiry into the genuineness of the Scheduled Caste (samban) certificate obtained by the appellant from the RDO, Kavali. The MRO, Buchireddypalem has reported in letter No. L.Dis.C 159/2004, dated: 27-5-2004 stating that the individual was resident of Minagallu village and he belongs to Chembadi caste and that the member of Mandal Parishad Territorial Constituency, Minagallu and the Panchayat Secretary has also given statements accordingly. As narrated above, the Committee has gone through the material available on record, observed that the individual does not belong to Samban (SC) but he belongs to Chembadi caste. On the recommendations of the DLSC,

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under Rule 9(7) of Andhra Pradesh (Scheduled Castes, Scheduled Tribes & Backward Classes) Issue of Community, Nativity and Date of Birth Certificate Rules, 1997, issued vide G.O.Ms No.58, Social Welfare(J) department, dated: 12.5.1997, read with rule 5(1) of the A.P (SC,ST & BCs) Regulation of Issue of Community Certificates Act, 16/1993, it has been confirmed the caste status of the above individual as Chembadi (B.C) and issued orders in Rc.C5(M) 1454/2006, dated: 05.7.2009, canceling the Samban(S.C) caste certificate issued by the then Revenue Divisional officer, Kavali in F.Dis.No.63/92, dated 10.6.1992 and published the same vide notification No.Rc.C5 (M) 1454/2006, dated: 05.7.2009 in the District Gazette(extra ordinary).

As per the Section 6 of the Act, the burden of proof is on the claimant that he belongs to particular caste i.e., Samban (SC) in this case. The petitioner miserably failed to discharge the said burden and has been trying to dodge the matter on some pretext or other.

Though the caste of the individual has been enrolled in school records as Samban, he has not availed any benefit under Scheduled Caste Category because they are being treated in the village as Chembadi Caste people but not as Sambans.

The DLSC has conducted detailed enquiry into the matter by following the due procedure laid down in the Act 16/1993, examined the customs and whether migrated from anywhere. Either the individual or his ancestors do not speak Tamil language. According to the Thurston, the Historian, the people of Samban caste have migrated from Tamilnadu. The people of Samban caste or their ancestors must have to speak Tamil language. The Commissioner of Social Welfare, A.P., Hyderabad in letter No.R1/7155/2007, dated:20-08-2007 has stated that the persons belonging to Chembadi and other castes are equating themselves with Samban caste and are claiming Scheduled caste status even though these communities are clearly not suffering from the stigma of untouchability and are thus taking away the benefit meant for Scheduled Castes and that the stigma of untouchability shall be taken into consideration during issue of Scheduled Caste Certificates and hence, the committee has reported that he does not belong to Samban (SC) but he belongs to Chembadi Caste.

The Samban caste status of Sri Sulluru Devarajulu and others has been cancelled by the District Collector vide proceedings Rc.C4.3367/1996, dated 11.11.1998. On appeal preferred by the above individuals, the Government has remanded the issue of enquiry into the caste status of Sri Sulluru Devarajulu and others vide Govt. Memo No.24355/Cv.1/98-9, dated: 12.12.2001 and the same is under enquiry by the Revenue Divisional Officer, Nellore. During the course of enquiry into the caste status of the appellant, he has not raised his relationship with Sulluru Devarajulu and others. The appellant has raised the issue now with an intention to dodge the matter on some pretext or other. However, the Samban SC certificates of Sri Sulluru Devarajulu and others are not in force as they have been cancelled by the District Collector as stated above.

Action will be taken against the fraudulent caste claims of the individuals as per the provision of Act & Rules in force.

7. The case has been taken up for personal hearing before the Appellate Authority on 28-12-2010, 07-01-2011, 04-02-2011, 14-02-2011, 14-03-2011, 18-04-2011, 29-04-2011 and finally heard on 10-10-2011. The appellant was present and produced the record/document No.289 of 1939, (Sub-Registrar, Sri Pottisriramulu Nellore District) in support of his claim.

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8. The Government, after careful examination of the proceedings D.Dis. (C5) 1061/2010, dated: 27-07-2010 and parawise remarks and records of the District Collector, SPS Nellore and the document produced by the appellant, material available with the Government, it is observed that, the appellant, i.e Sri D.Ramesh, Typist, O/o Tahsildar, Vakadu Mandal, SPSR Nellore District failed to prove that he belongs to Scheduled Caste (Samban) Community and the explanation offered by the appellant is not convincing. The appellant has not submitted any recorded evidence to establish that he belongs to SC (Samban) Caste.

9. Government, in exercise of the powers conferred u/s 7 of Act No 16 of 1993, decided that the appeal petition filed by Sri D.Ramesh, S/o.Seenaiah does not deserve any interference as the appellant has not submitted any recorded evidences to establish that he belongs to S.C.(Samban) Caste. Hence, Proceedings of the District Collector, SPS Nellore, issued vide D.Dis. (CS) 1061/2010, dated: 27.07.2010 are upheld and the appeal petition of Sri D.Ramesh, S/o.Seenaiah, Nellore District is hereby dismissed.

10. The District Collector, SPS Nellore shall take further necessary action in the matter accordingly.

11. The records furnished by the District Collector, SPS Nellore vide 5th read above (i, File No.C5 (M) 1454/2006 containing pp. 1-418 C.F., and pp. 1-10 n.f., and ii) File No.C5(M).1061/2010 containing pages 1-148 c.f and 1-6 n.f) are returned herewith and he is requested to acknowledge the receipt of the same at earliest.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**J.RAYMOND PETER
PRINCIPAL SECRETARY TO GOVERNMENT**

To
The District Collector,
SPS Nellore (w.e) (by RPAD)
(With original records) (With a request to
serve the G.O copy to the appellant and furnish
acknowledgement to the Government)

Sri Dasari Ramesh, S/o. Seenaiah,.
R/o.Pathaminagallu Village,
Bucchireddypalem Mandal,
SPS Nellore District.

Copy to:

The P.S. to M (SW)
The P.S. to Principal Secretary (SW)
SF/SC

//Forwarded: by Order//

Section Officer